

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER REDFORD  
COMMISSIONER SMITH  
COMMISSION SECRETARY

**FROM:** DON HOWELL  
DEPUTY ATTORNEY GENERAL

**DATE:** OCTOBER 10, 2014

**SUBJECT:** SETTLEMENT OF CLASS ACTION LAWSUIT – *CDA DAIRY QUEEN V. IDAHO STATE INSURANCE FUND*, CASE NO. CV-09-13607-C

The Commission is a member of a class action lawsuit against the Idaho State Insurance Fund (SIF). The Commission is a class member because it purchased workers' compensation insurance from the SIF. During the years 2002 through 2009, the SIF did not distribute pro rata refunds to policyholders who had been billed annual premiums of less than \$2,500. The class action was filed in December 2009 seeking damages/refunds for those policyholders with premiums of less than \$2,500. The suit generally alleged that denying annual refunds to some policyholders, resulted in other policyholders receiving more annual refunds than they were entitled to during the seven-year period.

In September 2014, the representative plaintiffs (Dairy Queen and the Discovery Care Center of Salmon) and the SIF entered into a settlement agreement. The proposed settlement provides that adversely affected class members will receive a pro rata portion of the damages based upon a complex formula. Under the terms of the settlement, no class member will be required to refund any overpayment to the SIF. Objections to the proposed settlement are due no later than November 20, 2014. The Court has scheduled a hearing to review the settlement and any objections on December 18, 2014.

### COMMISSION DECISION

Does the Commission consent to the proposed settlement?

Don Howell  
Don Howell  
Deputy Attorney General